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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 13 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of

Non-Streamlined ISP-PDR-20001013-00040
COOK INLET/VOICESTREAM PCS, LLC

Cook Inlet/VoiceStream PCS, LLC,
Cook Inlet/VoiceStream License, LLC,
Cook Inlet/VS GSM II PCS, LLC,
Omnipoint Atlantic City License, LLC,
Omnipoint Dover License, LLC,
Omnipoint Philadelphia License, LLC,
Cook Inlet/VS GSM III PCS, LLC,
CIVS PA I, LLC,
CIVS PA III, LLC,
D&E/Omnipoint Joint Venture, L.P.,
Omnipoint Philadelphia-E Lancaster E License, LLC
and
Cook Inlet/VoiceStream PV/SS PCS L.P.

Petition for Determination of the Public Interest
Under Section 310(b)(4) of the Communications
Act of 1934, As Amended

IB Docket
00-187

To: The Commission

**PETITION FOR DECLARATORY RULING UNDER SECTION 310(b)(4) OF THE
COMMUNICATIONS ACT OF 1934, AS AMENDED**

Cook Inlet/VoiceStream PCS, LLC, Cook Inlet/VoiceStream License, LLC, Cook
Inlet/VS GSM II PCS, LLC, Omnipoint Atlantic City License, LLC, Omnipoint Dover License,
LLC, Omnipoint Philadelphia License, LLC, Cook Inlet/VS GSM III PCS, LLC, CIVS PA I,
LLC, CIVS PA III, LLC, D&E/Omnipoint Joint Venture, L.P., Omnipoint Philadelphia-E
Lancaster E License, LLC and Cook Inlet/VoiceStream PV/SS PCS L.P. (collectively, the "CIVS
Entities"), by their attorneys and pursuant to Section 310(b)(4) of the Communications Act of
1934, as amended (the "Act"), 47 U.S.C. § 310(b)(4), hereby respectfully petition the
Commission to issue a declaratory ruling to allow indirect foreign ownership in the CIVS

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Entities in excess of the twenty-five percent statutory benchmark that could potentially occur as a result of the consummation of the transaction between VoiceStream Wireless Corporation ("VoiceStream") and Deutsche Telekom AG ("DT") (the "VoiceStream-DT Transaction").¹ As described more fully below, the resulting indirect foreign ownership in the CIVS Entities would serve the public interest.

On September 14, 2000, Cook Inlet Region, Inc. ("CIRI"), an Alaska Native Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601 *et seq.*, and VoiceStream Wireless Corporation ("VoiceStream") filed twelve transfer of control applications to transfer control of the CIVS Entities from CIRI to VoiceStream (the "Cook-VS Transaction"). In accordance with Section 8149 of H.R. 4576, The Department of Defense Appropriations Act of 2001, Public Law No. 106-259, if the Commission does not deny these transfer of control applications the applications will be deemed granted within ninety days from the date of initial filing. Currently, VoiceStream owns a 49.9 percent indirect interest in each of the CIVS Entities. The Commission has authorized up to 30.6 percent investment in VoiceStream by HTPCSL, a British Virgin Islands corporation and a wholly owned subsidiary of Hutchison Whampoa Limited ("Hutchison"), a Hong Kong limited liability holding company.² The Commission separately has authorized up to an additional 25 percent investment in

¹ Applications related to the VoiceStream-DT transaction were filed with the Commission on September 18, 2000. See *VoiceStream Wireless Corporation, Powertel, Inc. and Deutsche Telekom AG Seek FCC Consent to Transfer Control of Licenses and Authorizations and Request Declaratory Ruling Allowing Indirect Foreign Ownership*, IB Docket No. 00-187, Public Notice (Oct. 11, 2000).

² See *VoiceStream Wireless Corporation, Omnipoint Corporation, Cook Inlet/Vs GSM II PCS, LLC, and Cook Inlet/Vs GSM III PCS, LLC Seek FCC Consent for Transfer of Control and Assignment of Licenses and Authorizations*, Memorandum Opinion and Order, 14 FCC Rcd 13,421 (August 16, 1999).

VoiceStream by non-Hong Kong, non-United States citizens.³ Currently, less than fifty percent of the shares of VoiceStream are owned by foreign entities; therefore, the resulting attributable foreign ownership interest in each of the CIVS Entities is less than twenty five percent, which is within the statutory benchmark set forth in Section 310(b)(4). Upon the consummation of the Cook-VS Transaction, VoiceStream will hold interests in the CIVS Entities ranging between 71.37 percent and 100 percent.⁴

On September 18, 2000, VoiceStream and DT filed applications seeking Commission consent to the transfer of control of VoiceStream from its current shareholders to DT. Upon consummation of the VoiceStream-DT Transaction contemplated by these applications, and subject to the Commission's approval, VoiceStream would become wholly owned and controlled by DT, a corporation organized under the laws of the Federal Republic of Germany.

³ See *Applications of Aerial Communications, Inc., Transferor, and VoiceStream Wireless Holding Corp., Transferee*, Memorandum Opinion and Order, WT Docket No. 00-3, DA 00-730 (rel. Mar. 31, 2000).

⁴ Specifically, VoiceStream would own: 71.37 percent of Cook Inlet/VoiceStream PV/SS PCS, L.P.; 80.02 percent of Cook Inlet/VoiceStream PCS, LLC and its wholly owned subsidiary, Cook Inlet/VoiceStream License Company, LLC; 100 percent of Cook Inlet/Vs GSM II PCS, LLC and its wholly owned subsidiaries Omnipoint Atlantic City License, LLC, Omnipoint Dover License, LLC and Omnipoint Philadelphia License, LLC; and 100 percent of Cook Inlet/Vs GSM III PCS, LLC and its wholly owned subsidiaries CIVS PA I, LLC and CIVS PA III, LLC (CIVS PA III, LLC will hold a single license upon the Commission's consent to a pending *pro forma* assignment application, File No. 0000126722). In addition, VoiceStream would own 100 percent of CIVS PA II, LLC, which in turn will hold the 1% general partnership interest in D&E Wireless Joint Venture, L.P. and its wholly owned subsidiary, Omnipoint Philadelphia-E. Lancaster E License, LLC, when the transaction contemplated by two transfer of control applications recently granted by the Commission, File Nos. 0000126703 and 0000126706, is consummated. Upon consummation of the Cook-VoiceStream transaction, the attributable foreign ownership in each of the CIVS Entities would be the same as VoiceStream's current foreign ownership, which would be authorized pursuant to the above-referenced Commission rulings authorizing certain levels of foreign ownership of VoiceStream and its licensee subsidiaries.

The Cook-VS Transaction is separate from and unrelated to the VoiceStream-DT Transaction, and the parties anticipate that the Cook-VS Transaction would be approved by the Commission and consummated prior to the approval and consummation of the VoiceStream-DT Transaction. Nonetheless, because the transactions are separate and unrelated, it is possible that the VoiceStream-DT Transaction is approved by the Commission and consummated first. In the event the VoiceStream-DT Transaction is consummated first, the indirect foreign ownership of each of the CIVS Entities would be 49.9 percent. Section 310(b)(4) of the Act permits up to twenty five percent indirect foreign ownership in a common carrier radio licensee, and gives the Commission the discretion to allow indirect foreign ownership in excess of twenty five percent where a higher level of foreign ownership would be in the public interest. By this petition, in the event the VoiceStream-DT Transaction between VoiceStream and DT is consummated first, the CIVS Entities each hereby request a ruling by the Commission that this level of foreign ownership (49.9 percent) is in the public interest and allowing this level of foreign ownership in excess of the statutory (25%) benchmark. In the more likely event that the Cook-VS Transaction is approved and consummated first, the instant petition will be withdrawn as moot.

As explained in detail in the applications filed by DT and VoiceStream, DT's indirect foreign ownership of VoiceStream would not violate or frustrate any statutory provision or Commission rule and would yield substantial public interest and procompetitive benefits. Specifically, according to the applications, DT will provide VoiceStream with the resources necessary to accelerate the construction of existing licenses and acquire additional licenses necessary to expand its nearly nationwide GSM footprint. This construction and expansion will increase competition in the wireless telecommunications industry, resulting in lower prices, increased choice and improved quality for consumers.

DT's indirect foreign ownership of each of the CIVS Entities will serve the public interest for many of the same reasons. While in each case CIRI will remain in ultimate control of the operations of the licenses held by the CIVS Entities, each of the CIVS Entities will benefit from the additional resources provided from DT through VoiceStream. With the availability of these resources, the customers of the PCS systems licensed to the CIVS Entities will benefit from the same wider area coverage, improved quality service and lower prices that current VoiceStream customers will enjoy. Finally, all wireless customers will benefit from the increased competition and choice provided by a PCS provider using GSM technology and operating a nearly national footprint.

Thus, for the reasons articulated in the applications filed by VoiceStream and DT, and for the reasons stated herein, the CIVS Entities each respectfully requests that, in the event the Commission consents to the transaction contemplated by VoiceStream and DT prior to the time it consents to the transaction contemplated by CIRI and VoiceStream, the Commission also issue a declaratory ruling confirming that DT's 49.9 percent indirect foreign ownership interest in the CIVS Entities is permissible under Section 310(b)(4) of the Act because it is in the public interest.

Respectfully submitted,

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 LLC
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By:



Jonathan D. Blake
 Christine E. Enemark
 Covington & Burling
 1201 Pennsylvania Avenue, N.W.
 Washington, D.C. 20004-2401
 (202) 662-6110

Their Attorneys

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